

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 United States of America,
10 Plaintiff,

11 v.

12 Kevin James Lewis,
13 Defendant.
14

No. CR-23-01809-001-PHX-DGC
ORDER

15 Defendant Kevin Lewis has filed a motion for leave to file a belated notice of appeal.
16 Doc. 135. The motion will be denied.

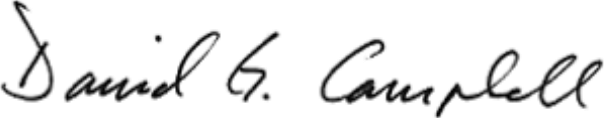
17 Defendant pled guilty to making a false statement during a firearm purchase in
18 violation of 18 U.S.C. §§ 922 and 924. Docs. 8, 91, 124. On March 19, 2025, the Court
19 sentenced Defendant to eight years in prison. Docs. 123, 125. The Court advised
20 Defendant at the sentencing hearing that he had 14 days to file a notice of appeal. *See* Fed.
21 R. App. P. 4(b)(1)(A); *United States v. Allen*, No. CR 09-0396-005-PHX, 2011 WL
22 6941718, at *5 (D. Ariz. Sept. 20, 2011) (“Rule 4(b)(1)(A) provides that a notice of appeal
23 must be filed in the district court within 14 days after the entry of the judgment.”).
24 Defendant filed no notice of appeal by the April 2, 2025 deadline (14 days from March 19).

25 “Rule 4(b)(4) allows the district court, upon a finding of excusable neglect or good
26 cause, to ‘extend the time to file a notice of appeal for a period not to exceed 30 days from
27 the expiration of the time otherwise prescribed by . . . Rule 4(b).’” *Allen*, 2011 WL
28 6941718, at *5; *see United States v. Clark*, 984 F.2d 319, 320 (9th Cir. 1993) (“A notice

1 of appeal in a criminal case must be filed within [fourteen] days after the entry of judgment,
 2 and the district court lacks authority to extend this period by more than thirty days.”) (citing
 3 Fed. R. App. P. 4(b)). Defendant filed the present motion on May 6, 2025, more than 30
 4 days after the April 2 deadline for filing a notice of appeal. Doc. 135.¹ Because the Court
 5 can only extend the appeal deadline by 30 days, Defendant’s motion must be denied. *See*
 6 Doc. 138 at 2; *United States v. LeMay*, 255 F. App’x 266, 266 (9th Cir. 2007) (“The district
 7 court did not err in concluding that it lacked authority to grant LeMay’s renewed motion
 8 to file a delayed notice of appeal, because that motion was filed over 40 days after entry of
 9 the order LeMay sought to appeal.”) (citing Fed. R. App. P. 4(b)); *see also United States*
 10 *v. Avendano-Camacho*, 786 F.2d 1392, 1394 (9th Cir. 1986) (“[C]ourts have consistently
 11 viewed the filing deadlines of Federal Rule of Appellate Procedure 4(b) as ‘both mandatory
 12 and jurisdictional.’”) (citations omitted).

13 **IT IS ORDERED** that Defendant Kevin Lewis’s motion for belated notice of
 14 appeal (Doc. 135) is **denied**.

15 Dated this 13th day of June, 2025.

16 

17
 18 David G. Campbell
 19 Senior United States District Judge
 20
 21
 22
 23
 24
 25

26 ¹ The motion is dated May 6, but was not received by the Court until May 19, 2025.
 27 “Per the ‘prison mailbox rule,’ the Court deems a document ‘filed’ when delivered by an
 28 incarcerated person to a prison official for mailing.” *Miner v. Gunther*, No. CV-24-01662-
 PHX-JAT, 2025 WL 896505, at *1 (D. Ariz. Mar. 24, 2025) (citing *Houston v. Lack*, 487
 U.S. 266, 276 (1988)).